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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/490,759	01/24/2000	Brian B. Flippini	2942R/B	7598

7590 07/18/2002

The Lubrizol Corporation  
Patent Administrator  
2900 Lakeland Boulevard  
Wickliffe, OH 44092

EXAMINER

TOOMER, CEPHIA D

ART UNIT	PAPER NUMBER
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1714

DATE MAILED: 07/18/2002

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Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

Applicant(s)

Examiner

Group Art Unit

— The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address —

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- ☐ Responsive to communication(s) filed on \_\_\_\_\_
- ☐ This action is **FINAL**.
- ☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

## Disposition of Claims

- ☒ Claim(s) 1-33 is/are pending in the application.
- ☐ Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- ☒ Claim(s) 1, 2, 4-25 is/are rejected.
- ☒ Claim(s) 3, 26-33 is/are objected to.
- ☐ Claim(s) \_\_\_\_\_ are subject to restriction or election requirement

## Application Papers

- ☐ The proposed drawing correction, filed on \_\_\_\_\_ is ☐ approved ☐ disapproved.
- ☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119 (a)-(d)

- ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119 (a)-(d).
- ☐ All ☐ Some\* ☐ None of the:
  - ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_
  - ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a))

\*Certified copies not received: \_\_\_\_\_

## Attachment(s)

- ☒ Information Disclosure Statement(s), PTO-1449, Paper No(s). 4, 5 + 6
- ☐ Interview Summary, PTO-413
- ☐ Notice of Reference(s) Cited, PTO-892
- ☐ Notice of Informal Patent Application, PTO-152
- ☐ Notice of Draftsperson's Patent Drawing Review, PTO-948
- ☐ Other \_\_\_\_\_

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### **DETAILED ACTION**

The specification has not been checked to the extent necessary to determine the presence of all possible minor errors. Applicant's cooperation is requested in correcting any errors of which applicant may become aware in the specification.

#### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 2, and 4-25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dorer(US 4,613,342).

Dorer teaches a fuel composition comprising a reaction product of a hydrocarbyl substituted carboxylic acylating agent (succinic acid or anhydride) with one or more amines, one or more alcohols, or a mixture of one or more amine and alcohols (see abstract). The hydrocarbyl group contains at least 30 carbon atoms (see col. 15, lines 20-27) The hydroxyamines, amines and alcohols are the same as those of the present invention (see col. 20 lines 36 through col. 36, lines 1-25).

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In Examples 2 and 5, Dorer prepares the acylating agent and in claims 3 and 6 he reacts the agent with a polyamine where 11 and 17 parts of water are removed, respectively. See also Examples 8, 9, 14 and 15. Dorer teaches that the composition may be prepared as a concentrate (see col. 45, lines 7-37). Dorer teaches the limitations of the claims other than the differences that are discussed below.

In the first aspect, Dorer differs from the claims in that he does not specifically teach that the amount of water separated from the reaction is from 0.2-0.9 moles or from 1.2 to 1.9 moles. However, given the proportion of water removed in the reactions of Examples 3 and 5, it is the examiner's position that the proportions of water removed in Dorer are within the scope of the present invention, absent evidence to the contrary.

In the second aspect, Dorer differs from the claims in that he does not specifically teach the total acid number of the composition. However, it would be reasonable to expect that the composition of Dorer would possess the claimed total acid number given that Dorer uses the same reactants and produces a similar or identical product.

Claim 3 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. The prior art fails to teach or suggest a mixture of two hydrocarbyl substituted succinic acid having varying chain lengths.

Claims 26-33 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any

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intervening claims. The prior art fails to teach or suggest the claimed emulsions, fuel, lubricant or acidizing fluid containing the partially dehydrated product of claim 1.

Any inquiry concerning this communication should be directed to Cephia D. Toomer at telephone number 308-2509.

A handwritten signature in cursive script, appearing to read 'Cephia D. Toomer', followed by a long horizontal flourish.

Cephia D. Toomer  
Primary Examiner  
Art Unit 1714

CToomer:evh

6/29/02